IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO. 2372 OF 2007
IN
WRIT PETITION NO. 8138 OF 2005

Kum.Pratibha Nagaji Mhatre. ... Applicant.

V/s.

The Pen Co-op. Urban Bank Ltd.
and others. ... Respondents.

Vijay Patil for the applicant.

P.K.Rele i/b. Piyush Shah for respondent No.1.

CORAM: V.C.DAGA, J.

DATED: 17th October 2007.

P.C.:

. Heard learned counsel for the rival parties.

2. By this application, the applicant- employee (original respondent No.1) is seeking modification of the order dated 12th April, 2006, whereunder the original petitioner- employer was directed to deposit monthly wages/ salary of respondent No.1- employee at the end of every month for a period of six months. This order was passed on the assumption that the petition would be taken up for final hearing and disposal within six months. However, it appears that matter could not be heard within a period of six

months. In this view of the matter, respondent No.1-employee is seeking modification of the order with prayer to direct the petitioner- employer to continue to deposit wages as directed till disposal of this petition.

3. Mr.Rele, learned senior counsel appearing for petitioner- employer opposed this application saying that provision of section 17B of the Industrial Disputes Act, 1947 cannot be made applicable to facts of this case.

4. Having heard rival parties, it is not in dispute that provision of section 17B are not applicable to the facts of this case. However, considering the facts and circumstances of the case, principles thereof can be invoked in the interest of justice. It is, no doubt, true that the petition was expected to be heard within a period of six months. Considering huge pendency in the corridors of the court, most of the time, this Court finds it difficult even to hear those petitions of which hearing is expedited. In these circumstances, it is necessary to balance the ends of justice between the parties.

5. Keeping in view all the rival contentions and the facts stated hereinabove, in the interest of justice, petitioner- employer is directed to continue

to deposit monthly salary of respondent No.1- employee at the end of every month with arrears there of till 31st October, 2007. Monthly salary should be deposited on or before 10th of each succeeding month. So far as arrears of salary are concerned, which are from 10th October, 2006 till 31st October, 2007, the same be paid within a period of 20 days from today.

6. So far as withdrawal of the amount is concerned, respondent No.1- employee would be entitled to withdraw the amount deposited by the petitioner-employer, subject to furnishing security with undertaking that in the event the petition is allowed she would abide by the final orders of this Court.

7. Liberty to apply for expeditious hearing of the petition.

8. With the aforesaid directions, order dated 12th April, 2006 stands modified. Civil application is disposed of accordingly with no order as to costs.

JUDGE